United States District Court Southern District of Texas

ENTERED

June 21, 2022 Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

SHAYLA ANDERSON and ROBERT	§	
EDWARDS,	§	
	§	
Plaintiffs.	§	
	§	CIVIL ACTION NO. 4:21-cv-02511
VS.	§	
	§	
SUNRIDGE MANAGEMENT	§	
GROUP, INC., et al.,	§	
	§	
Defendants.	§	

MEMORANDUM AND RECOMMENDATION

Pending before me is Sunridge Management Group, Inc. and Grand Fountain Apts, LLC's Motion to Dismiss First Amended Complaint ("Motion to Dismiss"). Dkt. 16. United States District Judge George C. Hanks, Jr. has referred the Motion to Dismiss to me for a report and recommendation.

I have carefully analyzed the First Amended Complaint, the briefing submitted by both sides, and the applicable law. In reaching my decision, I am mindful that the Fifth Circuit has held that a motion to dismiss for failure to state a claim under Rule 12(b)(6) is disfavored in the law and rarely granted. *See Thompson v. Goetzmann*, 337 F.3d 489, 495 (5th Cir. 2003). I am also required by a long line of cases to accept Plaintiffs' well-pleaded facts as true and view them in the light most favorable to Plaintiffs. *See Q Clothier New Orleans, L.L.C. v. Twin City Fire Ins. Co.*, 29 F.4th 252, 256 (5th Cir. 2022). Given this legal authority, I recommend that the Motion to Dismiss be **DENIED**.

To be clear, I am not saying Plaintiffs' claims have merit. At this early juncture in the case, I am simply holding that the live pleading states cognizable claims for relief. After discovery takes place, we can assess at the summary

judgment stage whether there is any factual basis for Plaintiffs' claims or whether the claims should be dismissed as a matter of law.

The Clerk shall provide copies of this Memorandum and Recommendation to the respective parties who have 14 days from the receipt to file written objections pursuant to Federal Rule of Civil Procedure 72(b) and General Order 2002-13. Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

Signed on this day of June 2022.

ANDREW M. EDISON

UNITED STATES MAGISTRATE JUDGE